

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUSTM2J LLC,

Plaintiff,

v.

AYDEN BREWER, et al.,

Defendants.

No. 2:25-cv-00380-DAD-SCR

ORDER GRANTING DEFENDANT  
BREWER'S MOTION TO DISMISS IN  
PART, GRANTING DEFENDANTS LITZ  
AND ST. GEORGE'S MOTION TO DISMISS  
IN PART, GRANTING PLAINTIFF'S  
REQUEST TO SEAL, AND DENYING  
DEFENDANTS' MOTION FOR  
SANCTIONS.

(Doc. Nos. 15, 16, 30, 40)

This matter is before the court on defendant Brewer's motion to dismiss plaintiff's first amended complaint ("FAC") pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants St. George and Litz's motion to dismiss plaintiff's FAC pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6), plaintiff's request to seal documents, and defendants' motion for sanctions pursuant to Federal Rule of Civil Procedure 11. (Doc. Nos. 15, 16, 30, 40.) The pending motions were taken under submission pursuant to Local Rule 230(g). (Doc. Nos. 38, 41.) For the reasons below, the court will grant defendants' respective motions to dismiss in part, will grant plaintiff's request to seal, and will deny defendants' motion for sanctions.

////

**BACKGROUND**

On January 27, 2025, plaintiff JustM2J LLC initiated this fraud action against named defendants Ayden Brewer, Jon Litz, and Jason St. George. (Doc. No. 1.) On February 28, 2025, plaintiff file its FAC. (Doc. No. 14.) In its FAC, plaintiff alleges the following.

Plaintiff is a Delaware limited liability company that is the assignee of all claims belonging to Nakamoto LLC and a number of individuals related to a series of cyber-attacks (“the Bittensor attack”) against the participants of Bittensor. (*Id.* at ¶¶ 1, 10.) Together, these assignments amount to approximately 99% of all assets purportedly stolen during the Bittensor attack, totaling approximately \$30,300,000. (*Id.* at ¶¶ 2, 10; *id.* at 28.) Bittensor is a decentralized network that is designed to foster collaboration and competition among AI researchers. (*Id.* at ¶ 21.) It does this by allowing participants to earn rewards in the form of a digital token called TAO for providing computations and machine learning models aimed at completing certain tasks, such as image recognition. (*Id.* at ¶¶ 22, 24.) Bittensor is open-source in that its source code is freely available to the public. (*Id.* at ¶ 21.) Participants in Bittensor must have a piece of software called a wallet which enables them to receive, store, and transfer TAO and a private key that allows a user to access and control a wallet and its contents. (*Id.* at ¶ 23.)

Defendants St. George and Brewer were employees of Opentensor Foundation (“Opentensor”), which maintains, develops, and improves Bittensor. (*Id.* at ¶¶ 27, 30.) During his tenure there, defendant St. George had access to Opentensor’s proprietary key which allowed access to Opentensor’s PyPI account. (*Id.* at ¶ 27.) PyPI is a Python-language software repository which allows users to upload software packages, which are authenticated by using a proprietary key such as the one which Opentensor possessed. (*Id.* at ¶ 26.) Defendant St. George assisted in designing Bittensor’s wallet software code, which is the code that was later manipulated during the Bittensor attack. (*Id.* at ¶ 34.) Defendant Litz had applied for a developer position at Opentensor on defendant Brewer’s recommendation but was rejected. (*Id.* at ¶ 32.) Defendants Brewer, Litz, and St. George collaborated on a specific Bittensor subnet called FileTAO. (*Id.* at ¶ 41.) In December 2023, defendant St. George told other Opentensor

1 employees he would leave Opentensor to run FileTAO full-time. (*Id.* at ¶ 42.) Defendants  
2 Brewer and St. George created Vertex Storage Solutions, LLC, which had its principal place of  
3 business in Sacramento, California, to serve as FileTAO's owner. (*Id.* at ¶¶ 42, 43.)

4 Plaintiff alleges, on information and belief, that defendants Brewer, St. George, and Litz  
5 had entered into an agreement to plan and execute the Bittensor Attack at some time between  
6 December 2023 and April 2024. (*Id.* at ¶ 45.) Defendants registered a domain named  
7 opentensor.io which appeared as though it belonged to Opentensor. (*Id.* at ¶ 26.) On May 22,  
8 2024, Opentensor released an upgrade to Bittensor's software called version 6.12.2. (*Id.* at ¶ 47.)  
9 This release first took place on Github, which is an open-source code repository that Opentensor  
10 uses for Bittensor. (*Id.*) This release was also intended to be published on PyPI by Opentensor.  
11 (*Id.* at ¶ 48.) However, defendants used the proprietary Opentensor key to upload a malicious  
12 version of the Bittensor update. (*Id.*) This prevented the upload of the legitimate version 6.12.2  
13 of Bittensor to PyPI by Opentensor. (*Id.*) Bittensor users who downloaded version 6.12.2 from  
14 PyPI prior to July 2, 2024, therefore received a malicious version of the update which executed  
15 the same functions but also intercepted private keys associated with the wallets of those users and  
16 sent those keys to opentensor.io. (*Id.* at ¶ 50.) One of the final actions of the FileTAO subnet  
17 was to publish an update that required FileTAO participants to download the version 6.12.2 from  
18 PyPI. (*Id.* at ¶¶ 44, 85–87.) On June 10, 2024, defendants Brewer and St. George transferred  
19 most of FileTAO's assets out of Bittensor. (*Id.* at ¶ 88.) On June 11, 2024, defendant St. George  
20 deleted the open-source FileTAO code repository and deregistered FileTAO. (*Id.* at ¶¶ 88, 89.)

21 Between May 2, 2024, and July 2, 2024, the attackers used private keys obtained in this  
22 manner to steal a total of 61,793.90 TAO from thirty-two (32) wallets, amounting to the  
23 equivalent of roughly \$30,300,000. (*Id.* at ¶ 51.) On May 30, 2024, one such private key was  
24 used to obtain 1,030.9 TAO from a single wallet, amounting to roughly \$507,000. (*Id.* at ¶ 52.)  
25 On June 1, defendants used a different private key obtained in this manner to steal a total of  
26 28,368 TAO from another wallet, amounting to roughly \$13,900,000. (*Id.*) On July 2,  
27 defendants used thirty (30) additional keys obtained in this manner to steal 32,395 TAO, valued at  
28 approximately \$15,000,000, from thirty (30) wallets. (*Id.*)

1 Opentensor subsequently placed the Bittensor network in safe mode and on July 3  
2 discovered the malicious version that had been uploaded to PyPI. (*Id.* at ¶¶ 53, 54.) Opentensor  
3 retained a forensic investigator and contacted law enforcement regarding the Bittensor attacks,  
4 though plaintiff does not allege when the investigation conducted by the forensic investigator was  
5 completed. (*Id.* at ¶ 55.)

6 A series of transfers and exchanges occurred which caused the assets taken in these three  
7 attacks which comprised the Bittensor attack to be deposited into specific wallet addresses (“the  
8 Destination Addresses”) across several exchanges. (*Id.* at ¶¶ 56, 57.) Regarding these  
9 Destination Addresses, the court observes that several of the alleged endpoints for assets have  
10 remained the same since the filing of plaintiff’s original complaint through the time of its filing of  
11 the FAC. Accordingly, the court incorporates herein the background section of its February 7,  
12 2025 order denying plaintiff’s motion for temporary restraining order with respect to the  
13 Destination Addresses.<sup>1</sup> (Doc. No. 7 at 3–8.) Plaintiff now alleges that one of these addresses,  
14 specifically address 0x09F76d4FC3bcE5bF28543F45c4CeE9999E0a0Aaf, only temporarily held  
15 proceeds of the May 30, 2024 attack to provide initial funding for Destination Addresses traced as  
16 endpoints for proceeds of the June 1, 2024 attack. (Doc. No. 14 at ¶ 66.) Further, a specific  
17 wallet with address 0xD512AE64bbC1078B1ffAb3519F99776b049d4F08 was used by  
18 defendants Litz and Brewer to publish a non-fungible token in the past. (*Id.* at ¶ 76.) That wallet  
19 was used to send, through a series of transactions, some assets to a private wallet address (“the  
20 Suspected Laundering Service”) that plaintiff alleges is associated with a money laundering  
21 service. (*Id.* at ¶¶ 57, 76.) Defendants Brewer and Litz also used another wallet to publish a non-  
22 fungible token, which between May 30, 2024 and June 11, 2024, received significant additional  
23 funds from cryptocurrency exchanges that had received proceeds from the Bittensor attack. (*Id.*  
24 at ¶ 78.)

---

25  
26 <sup>1</sup> Plaintiff has alleged different dollar value amounts for the amount of cryptocurrency taken  
27 because those values have fluctuated. (Doc. No. 14 at 30.) Additionally, plaintiff has identified  
28 several new Destination Addresses and has amended its allegations regarding how much of each  
cryptocurrency asset reached certain addresses. (*Id.* at 30–31.) This order does not reproduce  
these changes for the sake of brevity.

1 Based upon these allegations, plaintiff asserts seven claims against defendants:

2 (1) accessing protected computers without authorization and causing damage or loss in violation  
3 of the Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. §§ 1030(a)(2)(C), 1030(a)(4) and  
4 1030(a)(5)(C); (2) intercepting electronic communications by Bittensor participants in violation  
5 of the Wiretap Act, 18 U.S.C. §§ 2510, *et seq.*; (3) fraud; (4) conversion; (5) unjust enrichment;  
6 (6) imposition of a constructive trust and disgorgement of funds; and (7) receipt of stolen property  
7 in violation of California Penal Code § 496. (Doc. No. 14 at ¶¶ 100–154.)

8 On April 8, 2025, defendant Brewer filed his motion to dismiss, as did defendants St.  
9 George and Litz. (Doc. Nos. 15, 16.) In addition, on April 8, 2025, defendants St. George and  
10 Litz filed a request for judicial notice. (Doc. No. 18.) On May 6, 2025, plaintiff filed its  
11 oppositions to those motions, and on May 7, 2025 plaintiff filed three declarations with attached  
12 exhibits in support of those oppositions. (Doc. Nos. 24, 25, 26, 27, 28, 29.) On May 20, 2025,  
13 defendants filed their replies thereto, as well as evidentiary objections to plaintiff’s objections.  
14 (Doc. Nos. 33, 34, 35.) On June 20, 2025, defendants filed a motion seeking the imposition of  
15 sanctions against plaintiff pursuant to Rule 11. (Doc. No. 40.) On July 7, 2025, plaintiff filed its  
16 opposition to that motion for sanctions. (Doc. No. 41.) On July 17, 2025, defendants filed their  
17 reply thereto. (Doc. No. 43.)

18 Below, the court will first set out the applicable legal standards to be before turning to  
19 address each of the pending motions.

## 20 **APPLICABLE LEGAL STANDARDS**

### 21 **A. Motion to Dismiss Pursuant to Rule 12(b)(2)**

22 Under Rule 12(b)(2) of the Federal Rules of Civil Procedure, a defendant may move to  
23 dismiss an action for lack of personal jurisdiction. In opposing such a motion, the plaintiff bears  
24 the burden of proof to show that jurisdiction is appropriate. *Picot v. Weston*, 780 F.3d 1206, 1211  
25 (9th Cir. 2015); *Love v. Assoc. Newspapers, Ltd.*, 611 F.3d 601, 608 (9th Cir. 2010). When a  
26 defendant’s motion to dismiss is based on written materials rather than an evidentiary hearing and  
27 is to be decided on the pleadings, affidavits, and discovery materials, the plaintiff need only make

28 /////

1 a *prima facie* showing that personal jurisdiction exists in order for the action to proceed. *See*  
 2 *Ranza v. Nike, Inc.*, 793 F.3d 1059, 1068 (9th Cir. 2015); *Picot*, 870 F.3d at 1211.

3 In determining whether personal jurisdiction has been established, the court accepts the  
 4 plaintiff's allegations as true and resolves any conflicts between the parties over statements  
 5 contained in affidavits in the plaintiff's favor. *Love*, 611 F.3d at 608; *Schwarzenegger v. Fred*  
 6 *Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). However, where allegations are  
 7 controverted by a defendant, the plaintiff cannot "simply rest on the bare allegations of [the]  
 8 complaint, but rather [is] obligated to come forward with facts, by affidavit or otherwise,  
 9 supporting personal jurisdiction." *Philips v. Pitt Cnty. Mem'l Hosp., Inc.*, 855 F. App'x 324 (9th  
 10 Cir. 2021)<sup>2</sup> (quoting *Amba Mktg. Sys., Inc. v. Jobar Int'l, Inc.*, 551 F.2d 784, 787 (9th Cir. 1977)).

11 "Where, as here, there is no applicable federal statute governing personal jurisdiction, the  
 12 law of the state in which the district court sits applies." *Core-Vent Corp. v. Nobel Indus. AB*, 11  
 13 F.3d 1482, 1484 (9th Cir. 1993). "California's long-arm statute allows courts to exercise personal  
 14 jurisdiction over defendants to the extent permitted by the Due Process Clause of the United  
 15 States Constitution." *Core-Vent Corp.*, 11 F.3d at 1484; *see also* Cal. Civ. Proc. Code § 410.10  
 16 ("A court of this state may exercise jurisdiction on any basis not inconsistent with the  
 17 Constitution of this state or of the United States."). Thus, only constitutional principles constrain  
 18 the jurisdiction of a federal court in California. *Love*, 611 F.3d at 608–09.

19 Under the Fourteenth Amendment's due process clause, courts may exercise personal  
 20 jurisdiction over non-resident defendants only so long as there are sufficient "minimum contacts"  
 21 between the defendant and the forum state "such that maintenance of the suit does not offend  
 22 'traditional notions of fair play and substantial justice.'" *World-Wide Volkswagen Corp. v.*  
 23 *Woodson*, 444 U.S. 286, 292 (1980) (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316  
 24 (1945)). "Each defendant's contacts with the forum State must be assessed individually." *Calder*

25 ////

26 ////

---

27 <sup>2</sup> Citations to the unpublished Ninth Circuit opinions throughout this order are appropriate  
 28 pursuant to Ninth Circuit Rule 36-3(b).

1 v. *Jones*, 465 U.S. 783, 790 (1984).<sup>3</sup> “The strength of contacts required depends on which of the  
 2 two categories of personal jurisdiction a litigant invokes: specific jurisdiction or general  
 3 jurisdiction.” *Ranza*, 793 F.3d at 1068.

4 **B. Motion to Dismiss Pursuant to Rule 12(b)(6)**

5 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal  
 6 sufficiency of the complaint. *N. Star Int’l v. Ariz. Corp. Comm’n*, 720 F.2d 578, 581 (9th Cir.  
 7 1983). “Dismissal can be based on the lack of a cognizable legal theory or the absence of  
 8 sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901  
 9 F.2d 696, 699 (9th Cir. 1988). A plaintiff is required to allege “enough facts to state a claim to  
 10 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A  
 11 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw  
 12 the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v.*  
 13 *Iqbal*, 556 U.S. 662, 678 (2009).

14 In determining whether a complaint states a claim on which relief may be granted, the  
 15 court accepts as true the allegations in the complaint and construes the allegations in the light  
 16 most favorable to the plaintiff. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984); *Love v.*  
 17 *United States*, 915 F.2d 1242, 1245 (9th Cir. 1989), *abrogated on other grounds by DaVinci*  
 18 *Aircraft, Inc. v. United States*, 926 F.3d 1117 (9th Cir. 2019). However, the court need not  
 19 assume the truth of legal conclusions cast in the form of factual allegations. *U.S. ex rel. Chunie v.*  
 20 *Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986). While Rule 8(a) does not require detailed  
 21 factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me  
 22 accusation.” *Iqbal*, 556 U.S. at 678. A pleading is insufficient if it offers mere “labels and  
 23 conclusions” or “a formulaic recitation of the elements of a cause of action.” *Twombly*, 550 U.S.  
 24 at 555; *see also Iqbal*, 556 U.S. at 676 (“Threadbare recitals of the elements of a cause of action,  
 25

---

26 <sup>3</sup> A plaintiff must also establish personal jurisdiction for “each claim asserted against a  
 27 defendant.” *Action Embroidery Corp. v. Atl. Embroidery, Inc.*, 368 F.3d 1174, 1180 (9th Cir.  
 28 2004). If personal jurisdiction exists over one claim, but not others, the district court may  
 exercise pendent personal jurisdiction over any remaining claims that arise out of the same  
 “common nucleus of operative facts” as the claim for which jurisdiction exists. *Id.*



supported by mere conclusory statements, do not suffice.”). Moreover, it is inappropriate to assume that the plaintiff “can prove facts that it has not alleged or that the defendants have violated the . . . laws in ways that have not been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).

### C. Pleading Fraud Pursuant to Rule 9(b)

A complaint alleging fraud must also satisfy heightened pleading requirements. Fed. R. Civ. P. 9(b) (“In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.”). “Fraud can be averred by specifically alleging fraud, or by alleging facts that necessarily constitute fraud (even if the word ‘fraud’ is not used).” *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124 (9th Cir. 2009) (citing *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1107 (9th Cir. 2003)). “When an entire complaint, or an entire claim within a complaint, is grounded in fraud and its allegations fail to satisfy the heightened pleading requirements of Rule 9(b), a district court may dismiss the complaint or claim.” *Vess*, 317 F.3d at 1107.

“Rule 9(b) demands that the circumstances constituting the alleged fraud be specific enough to give defendants notice of the particular misconduct . . . so that they can defend against the charge and not just deny that they have done anything wrong.” *Kearns*, 567 F.3d at 1124 (citation and internal quotation marks omitted). To satisfy the particularity standard of Rule 9(b), the plaintiff must allege the “‘who, what, when, where, and how’ of the misconduct charged.” *Id.* (citing *Vess*, 317 F.3d at 1106).

### D. Motion for Sanctions Pursuant to Federal Rule of Civil Procedure 11

“Rule 11 authorizes sanctions for pleadings ‘presented for any improper purpose’ or for claims ‘not warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.’” *U.S.A. Dawgs, Inc. v. Crocs, Inc.*, 848 F. App’x 788 (9th Cir. 2021) (quoting Fed. R. Civ. P. 11); *see also* Fed. R. Civ. P. 11(b). “Where, as here, the complaint is the primary focus of Rule 11 proceedings, a district court must conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually ‘baseless’ from an objective perspective, and (2) if the attorney has conducted ‘a reasonable and competent



inquiry’ before signing and filing it.” *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir. 2002). ““Because the rule is not intended to chill an attorney’s enthusiasm or creativity in pursuing factual or legal theories,’ Rule 11 sanctions are reserved for ‘the exceptional circumstance.’” *Lima v. Deutsche Bank Nat’l Tr. Co.*, 687 F. App’x 606 (9th Cir. 2017) (quoting *Riverhead Sav. Bank v. Nat’l Mortg. Equity Corp.*, 893 F.2d 1109, 1115 (9th Cir. 1990)).

#### **E. Requests to Seal**

All documents filed with the court are presumptively public. *San Jose Mercury News, Inc. v. U.S. Dist. Court*, 187 F.3d 1096, 1103 (9th Cir. 1999) (“It is well-established that the fruits of pretrial discovery are, in the absence of a court order to the contrary, presumptively public.”). “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)).<sup>4</sup>

Two standards generally govern requests to seal documents. *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 677 (9th Cir. 2010).

[J]udicial records attached to dispositive motions [are treated] differently from records attached to non-dispositive motions. Those who seek to maintain the secrecy of documents attached to dispositive motions must meet the high threshold of showing that “compelling reasons” support secrecy. A “good cause” showing under Rule 26(c) will suffice to keep sealed records attached to non-dispositive motions.

*Kamakana*, 447 F.3d at 1180 (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135–36 (9th Cir. 2003)). The reason for these two different standards is that “[n]on-dispositive motions are often unrelated, or only tangentially related, to the underlying cause of action, and, as a result, the public’s interest in accessing dispositive materials does not apply with equal force to non-dispositive materials.” *Pintos*, 605 F.3d at 678 (internal quotation marks omitted).

////

---

<sup>4</sup> Pursuant to Federal Rule of Civil Procedure 5.2(d), a court “may order that a filing be made under seal without redaction.” However, even if a court permits such a filing, it may “later unseal the filing or order the person who made the filing to file a redacted version for the public record.” Fed. R. Civ. P. 5.2(d).

Under the “compelling reasons” standard applicable to dispositive motions, such as a motion to dismiss:

[T]he court must conscientiously balance the competing interests of the public and the party who seeks to keep certain judicial records secret. After considering these interests, if the court decides to seal certain judicial records, it must base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.

*Id.* at 1178–79 (internal quotation marks and citations omitted). The party seeking to seal a judicial record bears the burden of meeting the “compelling reasons” standard. *Id.* at 1178.

While the terms “dispositive” and “non-dispositive” motions are often used in this context, the Ninth Circuit has clarified that the “compelling reasons” standard applies whenever the motion at issue “is more than tangentially related to the merits of a case.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016).

“In general, ‘compelling reasons’ sufficient to . . . justify sealing court records exist when such ‘court files might . . . become a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179 (quoting *Nixon*, 435 U.S. at 598). “The mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records.” *Id.* Finally, “[t]he ‘compelling reasons’ standard is invoked even if the dispositive motion, or its attachments, were previously filed under seal or protective order.” *Id.* at 1178–79.

## DISCUSSION

### A. Plaintiff’s Request to Seal

Plaintiff’s request to seal at issue was filed as to exhibits submitted in support of an opposition to a motion to dismiss and therefore is governed by the “compelling reasons” standard. *See Arouh v. GAN Ltd.*, No. 8:23-cv-02001-FWS-JDE, 2024 WL 4800676 (C.D. Cal. Feb. 13, 2024) (finding that exhibits attached to an opposition to a motion to dismiss could only be sealed for compelling reasons). Specifically, plaintiff seeks to seal exhibits attached to the declarations of Gyles Foster and Margaret Hoppin. (Doc. No. 30 at 2.) As will become evident, the court

1 does not rely on the exhibit attached to the Foster declaration in resolving the pending motions.  
 2 Therefore, the public interest in access to those materials is minimal. *Lesnik v. Eisenmann SE*,  
 3 No. 16-cv-01120-LHK, 2021 WL 2093062, at \*2 (N.D. Cal. Feb. 12, 2021) (finding the public  
 4 interest in access to materials to be minimal where those materials were not relied upon by the  
 5 court). As to the exhibits attached to the Hoppin declaration, the court observes that the exhibits  
 6 contain personal information such as assignors' names, addresses, phone numbers, and email  
 7 addresses. "The Ninth Circuit has held that compelling reasons exist to keep personal  
 8 information confidential to protect an individual's privacy interest and to prevent exposure to  
 9 harm or identity theft." *Activision Publ'g, Inc. v. EngineOwning UG*, No. 2:22-cv-00051-MWF-  
 10 JC, 2023 WL 2347134, at \*1 (C.D. Cal. Feb. 27, 2023) (granting the plaintiff's motion to seal  
 11 personal information such as names and email addresses) (citing *Kamakana*, 447 F.3d at 1184);  
 12 *see also Hadley v. Kellogg Sales Co.*, No. 16-cv-04955-LHK, 2018 WL 7814785, at \*3 (N.D.  
 13 Cal. Sept. 5, 2018) (finding that compelling reasons exist to seal information such as phone  
 14 numbers and addresses). Additionally, plaintiff's request as to these exhibits is narrowly tailored  
 15 to seeking only redaction of this personal information. *Arouh*, 2024 WL 4800676, at \*2 (finding  
 16 that redactions of only personal information were narrowly tailored); *cf. Yates v. Cheeseburger*  
 17 *Restaurants, Inc.*, No. 2:22-cv-01081-DAD-DB, 2023 WL 4747431, at \*3 (E.D. Cal. July 25,  
 18 2023) (noting that requests to seal must be narrowly tailored and that blanket sealing of a  
 19 document is inappropriate where redactions would protect the sealable information).

20 Accordingly, the court will grant plaintiff's request to seal.

21 **B. Personal Jurisdiction As To Defendants St. George and Litz<sup>5</sup>**

22 Defendants St. George and Litz argue that plaintiff has not shown that this court has  
 23 personal jurisdiction over them. (Doc. No. 16 at 15–26.) Plaintiff responds that defendants'

24 /////

25 /////

26 /////

---

27 <sup>5</sup> Throughout this section of this order, the court refers to defendants St. George and Litz as  
 28 "defendants."

1 contacts with the Eastern District of California are sufficient for this court to exercise specific  
2 personal jurisdiction.<sup>6</sup> (Doc. No. 26 at 13–23.)

3 In determining whether a court has specific jurisdiction over a non-resident defendant, the  
4 Ninth Circuit employs the following three-prong test:

5 (1) The non-resident defendant must purposefully direct his  
6 activities or consummate some transaction with the forum or resident  
7 thereof; or perform some act by which he purposefully avails himself  
8 of the privilege of conducting activities in the forum, thereby  
9 invoking the benefits and protections of its laws;

8 (2) The claim must be one which arises out of or relates to the  
9 defendant’s forum-related activities; and

10 (3) The exercise of jurisdiction must comport with fair play and  
11 substantial justice, i.e. it must be reasonable.

11 *Picot v. Weston*, 780 F.3d 1206, 1211 (9th Cir. 2015) (quoting *Schwarzenegger v. Fred Martin*  
12 *Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004)); *see also Herbal Brands, Inc. v. Photoplaza, Inc.*,  
13 72 F.4th 1085, 1090 (9th Cir. 2023). “The plaintiff bears the burden of meeting the first two  
14 prongs while the defendant shoulders the burden on the final prong.” *Davis v. Cranfield*  
15 *Aerospace Sols., Ltd.*, 71 F.4th 1154, 1162 (9th Cir. 2023).

16 1. First Prong — Purposeful Availment or Purposeful Direction

17 “Under the first prong of our three-part analysis, to be subject to specific jurisdiction the  
18 defendant must purposefully direct its activities toward the forum state, purposefully avail itself  
19 of the privileges of conducting activities there, or engage in ‘some combination thereof.’”

20 *Impossible Foods Inc. v. Impossible X LLC*, 80 F.4th 1079, 1088 (9th Cir. 2023). Previously, the  
21 undersigned has applied a purposeful availment analysis “in suits sounding in contract” and a  
22 purposeful direction analysis “in suits sounding in tort.” *Glazer v. Priv. Residences At Ontario*  
23 *Place Condo. Ass’n*, No. 2:21-cv-01770-DAD-DB, 2023 WL 1767739, at \*5 (E.D. Cal. Feb. 3,  
24 2023). However, the Ninth Circuit has since clarified that, while these two forms of analysis

25 \_\_\_\_\_  
26 <sup>6</sup> Plaintiff also argues in passing that defendant St. George may be subject to general personal  
27 jurisdiction because the corporation Vertex has its principal place of business in the Eastern  
28 District of California and that corporation is merely an alter-ego of defendant St. George. (Doc.  
No. 26 at 18.) The court need not and does not consider this argument because it concludes that  
plaintiff has established specific personal jurisdiction for separate reasons.

1 generally apply to the two distinct kinds of claims, “this line is [not] a hard-and-fast rule. Rather,  
2 our cases do not impose a rigid dividing line between these two types of claims.” *Davis*, 71 F.4th  
3 at 1162 (internal quotation marks omitted); *see also Baton v. Ledger SAS*, 740 F. Supp. 3d 847,  
4 886 (N.D. Cal. 2024) (“Nonetheless, courts often look to both tests for all types of claims.”).  
5 Accordingly, the court will apply both the purposeful direction and purposeful availment tests in  
6 evaluating the first prong.

7 First, as to the purposeful availment analysis, plaintiff argues in conclusory fashion that  
8 defendants have “voluntarily derived some benefit from their interstate activities.” (Doc. No. 26  
9 at 19.) Plaintiff appears to contend, citing only an out-of-circuit decision, that defendants  
10 transferred the allegedly fraudulently-obtained funds into a bank located in California. (*Id.*)  
11 However, a review of the FAC reveals no allegations regarding any such transfer and plaintiff  
12 offers no evidence of such a transfer in their opposition to the motion to dismiss or declarations  
13 attached thereto. Accordingly, the court rejects plaintiff’s argument that defendants purposefully  
14 availed themselves of the benefits of the forum because plaintiff has simply made no allegations  
15 in this regard or offered any evidence to this effect.

16 As to purposeful direction, plaintiff argues that defendants St. George and Litz acted  
17 intentionally by jointly operating Vertex and FileTAO and surreptitiously publishing a malicious  
18 update on PyPI to steal TAO. (Doc. No. 26 at 20.) Plaintiff contends that these acts were  
19 expressly aimed at California because defendants launched a “broad cyber-attack against all  
20 Python-based Bittensor participants” which included some California residents and had made  
21 other contacts with California through Vertex, FileTAO, and defendant Brewer. (*Id.* at 21.)  
22 Defendants argue that plaintiff has failed to specifically allege any acts that defendants St. George  
23 and Litz have committed and, moreover, that plaintiff’s allegations fail to show that defendants  
24 expressly targeted California. (Doc. No. 34 at 6–9, 10–12.)

25 “Where allegedly tortious conduct takes place outside the forum and has effects inside the  
26 forum,” courts in the Ninth Circuit examine purposeful direction by using the three-part “effects”  
27 test set forth by the Supreme Court in *Calder v. Jones*, 465 U.S. 783 (1984). *AMA Multimedia,*  
28 *LLC v. Wanat*, 970 F.3d 1201, 1208 (9th Cir. 2020), *overruled on other grounds by Briskin v.*

1 *Shopify, Inc.*, 135 F.4th 739 (9th Cir. 2025). This “*Calder* effects test” asks whether the  
2 defendant is alleged to have (1) committed an intentional act (2) that was expressly aimed at the  
3 forum state and (3) that caused harm the defendant knew was likely to be suffered in the forum  
4 state. *Fred Martin Motor Co.*, 374 F.3d at 803.

5 Under the first element of the test, “[t]he meaning of the term ‘intentional act’ . . . is  
6 essentially the same as in the context of intentional torts; namely, the defendant must act with the  
7 ‘intent to perform an actual, physical act in the real world.’” *Picot*, 780 F.3d at 1214 (quoting  
8 *Fred Martin Motor Co.*, 374 F.3d at 806). Defendants St. George and Litz argue that plaintiff has  
9 only alleged in conclusory fashion that they committed any intentional act. (Doc. No. 16 at 17–  
10 18.) In this regard, defendants argue that, though plaintiff has alleged that a cyberattack occurred,  
11 it has failed to allege that defendants are responsible for that cyberattack. (*Id.* at 18.) Defendants  
12 provide the sworn declaration of defendant St. George in support of this contention, in which he  
13 declares that he had updated the FileTAO subnet to coincide with the 6.12.2 update from  
14 Bittensor as a matter of course rather than to carry out a hack or cyberattack. (Doc. No. 16-1 at ¶  
15 13.)

16 Where, as here, plaintiff “relies solely on written materials in [its] attempt to establish  
17 personal jurisdiction . . . [it] need make only a *prima facie* showing of jurisdictional facts.”  
18 *Brown v. Serv. Grp. of Am., Inc.*, No. 22-35107, 2022 WL 16958933, at \*1 (9th Cir. Nov. 16,  
19 2022) (internal quotation marks omitted). “Uncontroverted allegations in the complaint are taken  
20 as true[.]” *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 502 (9th Cir. 2023). Though the court  
21 “may not assume the truth of allegations in a pleading which are contradicted by affidavit, [it  
22 must] resolve factual disputes in the plaintiff’s favor.” *Mavrix Photo, Inc. v. Brand Techs., Inc.*,  
23 647 F.3d 1218, 1223 (9th Cir. 2011) (internal quotation marks and citations omitted).

24 Here, plaintiff has met its burden of making a *prima facie* showing that defendants  
25 committed an intentional act. Plaintiff has alleged that defendants St. George and Litz created  
26 FileTAO in December 2023 with Opentensor’s support. (Doc. No. 14 at ¶ 41.) Plaintiff also  
27 alleges that defendant Litz was extensively involved in the operation of FileTAO and that  
28 defendant St. George had, in December 2023, “planned to leave Opentensor to run FileTAO full-

time.” (*Id.* at ¶¶ 41, 42.) Plaintiff further alleges that defendant St. George exercised enough control over the codebase of FileTAO at the time of the attack that shortly thereafter he “deregistered” FileTAO and deleted its codebase. (*Id.* at ¶ 44.) Plaintiff alleges that FileTAO required its participants to download and install Opentensor’s version 6.12.2, which was the version used in the Bittensor attack. (*Id.* at ¶ 44.) Plaintiff has also provided the sworn declaration of Paul Swaim, who worked as the Chief Information Officer for Opentensor, to rebut defendants’ assertions that the update of FileTAO which required downloading version 6.12.2 was an update as a matter of course.<sup>7</sup> (Doc. No. 29 at ¶¶ 1–3.) Specifically, Mr. Swaim declares that version 6.12.2 made no “breaking changes”—changes that would have affected the compatibility of FileTAO immediately—and that a same-day update was not technically or practically necessary as a result. (*Id.* at ¶¶ 12–14.) Further, Mr. Swaim declares that this same-day update was unusual compared to FileTAO’s typical practice where updates were usually reserved for several days when non-breaking changes were implemented. (*Id.* at ¶ 16.)

Moreover, plaintiff alleges that a wallet associated with defendant Litz received proceeds from

////

////

////

---

<sup>7</sup> Defendants have objected to various paragraphs within Mr. Swaim’s declaration. (Doc. No. 35.) Many of these objections are based on Mr. Swaim not demonstrating that he has personal knowledge of the practices of Opentensor and Bittensor. (Doc. No. 35 at 9–12.) The court finds that Mr. Swaim has laid an adequate foundation for his personal knowledge: He declares that he is the CIO of Opentensor and “coordinated and participated in Opentensor’s investigation into the series of sophisticated cyber-attacks perpetrated against Bittensor and Bittensor participants between May and July of 2024.” (Doc. No. 29 at ¶ 2); *see also In re Kaypro*, 218 F.3d 1070, 1075 (9th Cir. 2000) (“Personal knowledge may be inferred from a declarant’s position.”). Defendants also object to various conclusions that Mr. Swaim draws in paragraphs 12 through 14 and 16 of his declaration, arguing that these assertions constitute improper lay opinion. (Doc. No. 35 at 9–12.) In these paragraphs, Mr. Swaim describes what version 6.12.2 of Bittensor did, how a same-day release of an update for a subnet was not necessary considering the practices of subnet operators, and how the same-day release of version 3.0.1 for FileTAO’s subnet was inconsistent with their previous practices. (Doc. No. 29 at ¶¶ 12–14, 16.) Such testimony is based on Mr. Swaim’s personal knowledge as Opentensor’s CIO and the familiarity he declares he had with related subnets. (*Id.* at ¶ 2.) Accordingly, the court overrules defendants’ objections to the paragraphs of Mr. Swaim’s declaration which the court relies on in this order. The court overrules the remainder of defendants’ objections to Mr. Swaim’s declaration as moot.



1 the Bittensor attack which he sent to a cryptocurrency laundering service.<sup>8</sup> (Doc. No. 14 at ¶ 76.)  
 2 Resolving factual disputes in plaintiff’s favor, the court finds that plaintiff has made a *prima facie*  
 3 showing that defendants St. George and Litz committed an intentional act by deploying an update  
 4 designed to force FileTAO users to download a malicious Bittensor update. *See WhatsApp Inc. v.*  
 5 *NSO Grp. Techs. Ltd.*, 472 F. Supp. 3d 649, 669–70 (N.D. Cal. 2020) (finding that the parties did  
 6 not dispute that someone had sent malware through the plaintiff’s servers and that the  
 7 uncontroverted allegation that the defendants designed a program capable of that was sufficient  
 8 for purposes of making a *prima facie* showing that they “retained some role in conducting the  
 9 intentional act”).

10 Under the second element of the *Calder* effects test (whether the intentional act was  
 11 expressly aimed at the forum state), the focus of the court’s analysis is on the “defendant’s  
 12 contacts with the forum state itself, not the defendant’s contacts with persons who reside there.”  
 13 *Walden v. Fiore*, 571 U.S. 277, 285 (2014). Defendants argue in conclusory fashion that there is  
 14 no allegation that they directed any conduct towards California and therefore did not expressly

15 /////

16 /////

17 /////

18 /////

---

20 <sup>8</sup> Defendants argue that plaintiff has failed to allege that there was a direct transfer between the  
 21 wallet at issue and the Suspected Laundering Service. (Doc. No. 16 at 12.) In support of this  
 22 contention, defendants request judicial notice of what purports to be a digital ledger of every  
 23 transaction involving the wallet at issue, which does not reflect such a direct transfer. (Doc. No.  
 24 18.) The court first observes that defendants appear to ask the court to take judicial notice of the  
 25 contents of that ledger. (Doc. No. 18 at 3–4.) The court is not persuaded by defendants’ cursory  
 26 argument that blockchains are “secured, public ledgers that cannot be modified” that the contents  
 27 of the website defendants used to generate this ledger cannot be reasonably disputed. *See*  
 28 *Hunichen v. Tonomi LLC*, No. 19-cv-00615-RAJ-MAT, 2020 WL 6875558, at \*6 (W.D. Wash.  
 Oct. 6, 2020) (declining to take judicial notice of blockchain evidence because its contents may  
 be subject to reasonable dispute or varying interpretation), *report and recommendation adopted*,  
 2020 WL 68748889 (W.D. Wash. Nov. 23, 2020). Accordingly, the court will deny defendants’  
 request for judicial notice. Moreover, as the court discusses below in the context of defendants’  
 motion seeking the imposition of sanctions, plaintiff alleges that the transfer occurred through a  
 series of transactions. Therefore, defendants’ argument in this regard is not well-taken.

1 aim at that forum.<sup>9</sup> (Doc. No. 16 at 18–19.) In their reply, defendants clarify that their argument  
2 is that plaintiff’s contention that defendants St. George and Litz launched the Bittensor attack is  
3 conclusory and therefore any aiming of that attack at California cannot be attributed to them.  
4 (Doc. No. 34 at 10–11.) The court has already rejected defendants’ contention in this regard in  
5 concluding that plaintiff has made a *prima facie* showing that defendants St. George and Litz did  
6 commit the intentional act of deploying an update to coincide with the Bittensor attack.  
7 Moreover, to the extent defendants St. George and Litz argue that their actions were not directed  
8 against California specifically (Doc. No. 16 at 19), the court is unpersuaded. The Ninth Circuit  
9 has rejected the contention that express aiming “require[s] some sort of differential treatment of  
10 the forum state.” *Briskin*, 135 F.4th at 756–58 (“Pre-internet, there would be no doubt that the  
11 California courts would have specific personal jurisdiction over a third party who physically  
12 entered a Californian’s home by deceptive means to take personal information from the  
13 Californian’s files[.]”); *see also Williams v. Pac. Sunwear of Cal. LLC*, No. 24-cv-02015-PHX-  
14 JJT, 2024 WL 4626541, at \*7 (D. Ariz. Oct. 30, 2024) (“[I]t is enough to conclude that the actual  
15 operation of the alleged spyware occurred in Arizona and thereby vests jurisdiction in this  
16 forum.”). Plaintiff has alleged that defendants participated in the Bittensor attack and that,  
17 because the Bittensor attack targeted Californians’ information, the Bittensor attack targeted

---

18 <sup>9</sup> Defendants also argue that plaintiff has failed to allege that any harm took place in California at  
19 all. (Doc. No. 16 at 19.) Though such an allegation is missing from the FAC, attorney Margaret  
20 Hoppin, one of the attorneys representing plaintiff in this case, has declared that two of plaintiff’s  
21 assignors of claims are California residents who had assets stolen from them in California. (Doc.  
22 No. 27 at ¶¶ 4, 5.) Defendants object to attorney Hoppin’s declaration, stating that the addresses  
23 of assignors contained within the attached exhibits are inadmissible hearsay. (Doc. No. 35 at 15–  
24 16.) “Courts have held that hearsay may be considered for purposes of determining personal  
25 jurisdiction, provided it bears circumstantial indicia of reliability.” *Doe v. Aylo Glob. Ent. Inc.*,  
26 No. 23-cv-07488-MWF-AGR, 2024 WL 4599539, at \*9 (C.D. Cal. June 24, 2024) (cleaned up).  
27 Here, the addresses in the exhibits attached to attorney Hoppin’s declaration are found in a  
28 complaint form to the International Crime Complaint Center, which indicates that the assignors  
were reporting an incident and included their addresses. The court finds that this is a sufficient  
circumstantial indicia of reliability and accordingly overrules defendants’ hearsay objection for  
the purposes of determining personal jurisdiction. The court also overrules defendants’ objection  
that these documents are not authenticated: attorney Hoppin declares that they are “true and  
correct cop[ies]” and defendants have not argued that attorney Hoppin lacks personal knowledge  
to be able to authenticate these documents. *Fernandez v. Tox Corp.*, 677 F. Supp. 3d 1089, 1099  
n.4 (C.D. Cal. 2023).

1 California. No more is required. *See WhatsApp Inc.*, 472 F. Supp. 3d at 673 (noting that, while  
 2 allegations that a defendant targeted an individual is insufficient to confer specific jurisdiction in  
 3 the forum where the harm occurred, allegations that electronic code was sent to a forum  
 4 intentionally is sufficient to demonstrate express aiming at the forum); *see also Will Co. v. Lee*,  
 5 47 F.4th 917, 926 (9th Cir. 2022) (“A defendant causes harm in a particular forum when the bad  
 6 acts that form the basis of the plaintiff’s complaint occur in that forum. If a Defendant’s actions  
 7 cause harm in multiple fora, jurisdiction is proper in any forum where a sufficient amount of harm  
 8 occurs[.]”) (internal quotation marks and citations omitted), *overruled in part on other grounds by*  
 9 *Briskin*, 135 F.4th 739. Accordingly, the court finds that plaintiff has met its burden as to the  
 10 second prong of the *Calder* effects test.

11 As for the third and final element of the *Calder* effects test concerning the sufficiency of  
 12 allegations of harm, “‘something more’ than mere foreseeability” is required. *Fred Martin Motor*  
 13 *Co.*, 374 F.3d at 804–05 (quoting *Bancroft & Masters*, 223 F.3d 1082, 1087 (9th Cir. 2000)). An  
 14 action taken outside the forum state with foreseeable effects within the forum state does not *per*  
 15 *se* give rise to specific personal jurisdiction. *Id.* As the Supreme Court has made clear, “mere  
 16 injury to a forum resident is not a sufficient connection to the forum. Regardless of where a  
 17 plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the  
 18 defendant has formed a contact with the forum State.” *Walden*, 571 U.S. at 290. Accordingly,  
 19 “[t]he proper question is not where the plaintiff experienced a particular injury or effect but  
 20 whether the defendant’s conduct connects him to the forum in a meaningful way.” *Id.*

21 Defendants argue in conclusory fashion that this element is not met because plaintiff has  
 22 not alleged that defendants knew that as a result of their wrongful conduct harm was likely to be  
 23 suffered in California. (Doc. No. 16 at 19.) In their reply, defendants again argue that plaintiff  
 24 has failed to plausibly allege that defendants St. George and Litz contributed to the Bittensor  
 25 attack, an argument which, as noted, the court rejected above. (Doc. No. 34 at 11.) Moreover,  
 26 the court has also concluded that the Bittensor attack occurred at least in part in California based  
 27 on the attack on individuals within California. *Swarts v. Home Depot, Inc.*, 689 F. Supp. 3d 732,  
 28 741 (N.D. Cal. 2023) (“With regard to the third element, ‘[a] defendant causes harm in a

particular forum when the “bad act” that form the basis of the plaintiff’s complaint occur in that forum. Here, . . . , Home Depot was aware that it was recording its online chat conversations with customers, which could foreseeably cause harm in California.”) (quoting *Will Co. v. Lee*, 47 F.4th 917, 922 (9th Cir. 2022), *overruled in part on other grounds by Briskin*, 135 F.4th 739; *see also Williams*, 2024 WL 4626541, at \*6 (holding that an intentional cyberattack occurs inside the forum where the victim is located because otherwise “a cyber-thief could deliberately infect a person’s computer . . . and then evade personal jurisdiction simply because the tortfeasor sent the malware from outside the victim’s forum without knowledge of where the victim was physically located.”). Accordingly, the court concludes that plaintiff’s allegations are sufficient to make the required *prima facie* showing that defendants’ alleged actions caused harm that they knew was likely to be suffered in California. Therefore, plaintiff has at this time met its burden as to the purposeful direction element of specific jurisdiction.

## 2. Claim Arises Out of or Relates to Forum-Related Activities

Plaintiff has the burden to show that its claims “arise out of or relate to” defendants’ contacts with California. *Impossible Foods Inc.*, 80 F.4th at 1091. “The Supreme Court announced in [*Ford Motor Company v. Montana Eighth Judicial District Court*, 592 U.S. 351 (2021)] that arise out of and relate to are alternatives: for a claim to arise out of a defendant’s forum contacts requires causation, while a claim can relate to those contacts, even absent causation, where, for example, a company serves a market for a product in the forum state and the product malfunctions there.” *Yamashita*, 62 F.4th at 504–05 (internal quotation marks and ellipses omitted).

Here, defendants again argue that plaintiff has failed to adequately allege that defendants Litz and St. George participated in the Bittensor attack and therefore plaintiff has not alleged a harm which arose out of or related to defendants’ contacts with California. (Doc. No. 16 at 20–21.) The court has already rejected this argument with respect to whether plaintiff has adequately alleged that defendants committed an intentional act. Plaintiff alleges that defendants intentionally deployed an update to FileTAO to require participants in that subnet to install malicious software. (Doc. No. 14 at ¶¶ 44, 85–87.) Plaintiff has also presented a declaration, as

described above, rebutting defendants’ averment that the update was benign by noting how the update was unusual in its timing. (Doc. No. 29.) Defendants argue in reply that plaintiff has not alleged that the harm caused to their assignors was due to the FileTAO update, so the harm could not arise out of defendants’ purported contacts with California. (Doc. No. 34 at 9–10.) However, plaintiff’s claims regarding the exfiltration of private keys from its assignors arise out of the deployment of the FileTAO and Bittensor updates since Bittensor attack was accomplished through those updates. *See Alhathloul v. DarkMatter Grp.*, — F. Supp. 3d —, No. 3:21-cv-01787-IM, 2025 WL 2320474, at \*14 (D. Or. 2025) (finding that an injury to the plaintiff arose out of the defendants’ “tortious exfiltration of data” because there was a direct nexus between that exfiltration and the injury). Moreover, the injuries alleged by plaintiff, namely that the assignors lost assets due to extracting of personal data, are the type of injury that would be caused by defendants’ deployment of an update designed to install malicious software on users’ devices. Accordingly, those injuries are related to defendants’ contacts with California. *See Briskin*, 135 F.4th at 760 (“Briskin’s claims also ‘relate to’ Shopify’s California contacts because Briskin alleges the kind of injury that would ‘tend to be caused’ by Shopify’s contacts with California merchants and consumers.”); *see also Alhathloul*, 2025 WL 2320474, at \*14 (finding that extraction of personal data from a phone is the kind of contact that would create privacy related injuries). Plaintiff has therefore met its burden on the second prong of the specific jurisdiction analysis.

### 3. Fair Play and Substantial Justice

“Once Plaintiff satisfies the first two prongs, the burden then shifts to the defendant to present a compelling case that the exercise of jurisdiction would not be reasonable[.]” that is would not comport with fair play and substantial justice. *Herbal Brands, Inc. v. Photoplaza, Inc.*, 72 F.4th 1085, 1096 (9th Cir. 2023) (internal quotation marks omitted). The Ninth Circuit has identified a seven-factor balancing test to evaluate the reasonableness of exercising personal jurisdiction:

- (1) [T]he extent of the defendant’s purposeful interjection into the forum state’s affairs;
- (2) the burden on the defendant of defending in the forum;
- (3) the extent of conflict with the sovereignty of the

defendant's state; (4) the forum state's interest in adjudicating the dispute; (5) the most efficient judicial resolution of the controversy; (6) the importance of the forum to the plaintiff's interest in convenient and effective relief; and (7) the existence of an alternative forum.

*Freestream Aircraft (Bermuda) Ltd. v. Aero L. Grp.*, 905 F.3d 597, 607 (9th Cir. 2018).

As to the first factor, "[t]he purposeful interjection factor in the reasonableness analysis is analogous to the purposeful direction factor." *Ayla, LLC v. Alya Skin Pty. Ltd.*, 11 F.4th 972, 984 (9th Cir. 2021) (internal quotation marks omitted). Because the court has already concluded that plaintiff has advanced allegations sufficient for a *prima facie* showing that defendants purposefully directed their actions towards California, the court concludes for the same reasons that this factor weighs in favor of the exercise of personal jurisdiction. *See Briskin*, 135 F.4th at 761 (finding that the purposeful interjection factor weighed in favor of the exercise of jurisdiction based on the finding that the defendant purposefully directed business activities to the forum); *see also WhatsApp Inc.*, 472 F. Supp. 3d at 676 ("Because plaintiffs demonstrated purposeful direction, defendants injected themselves into the forum state.").

As to the second factor, defendants argue that the cost of litigation would be a significant burden because they reside in New York and Missouri. (Doc. No. 16 at 23.) Plaintiff argues that advances in technology mitigate this burden. (Doc. No. 26 at 23.) It is clear that requiring defendants St. George and Litz to litigate in California rather than their states of residence will place some burden upon them. *See, e.g., Electric Solidus, Inc. v. Proton Mgmt. Ltd.*, No. 2:24-cv-08280-MWC-E, 2025 WL 1090941, at \*11 (C.D. Cal. Apr. 9, 2025) (finding that the burden factor weighed in the defendant's favor because litigating in another state posed a significant burden). Nevertheless, "modern advances in communications and transportation have significantly reduced the burden of litigating in another country" or state. *Sinatra v. Nat'l Enquirer, Inc.*, 854 F.2d 1191, 1199 (9th Cir. 1988); *see also Aero L. Grp.*, 905 F.3d at 608 (finding that the burden factor only weighed slightly in defendants' favor because of modern advances in communication and technology); *Shirokov v. Ardatovskiy*, No. 25-cv-02701-EMC, 2025 WL 2042224, at \*3 (N.D. Cal. July 21, 2025) (finding that there is some burden imposed by requiring foreign defendants to litigate in the United States but that that burden is reduced by

1 technology). Accordingly, the court concludes that though there is some burden placed on  
2 defendants by exercising jurisdiction over them, this factor carries only slight weight.

3 As to the third factor, defendants argue without citation to authority that their home states  
4 have a greater interest in regulating their behavior because they have not “committed any  
5 misconduct in California or even directed any tortious activity at this forum[.]” (Doc. No. 16 at  
6 23.) The court has already rejected defendants’ contention in this regard as discussed above and,  
7 therefore, consideration of this factor does not weigh against the exercise of jurisdiction.

8 As to the fourth factor, defendants confusingly argue that California has no interest in this  
9 dispute because plaintiff is neither incorporated nor headquartered in California. (Doc. No. 16 at  
10 23–24.) Defendants are simply mistaken in this regard: Plaintiff brings this action on behalf of  
11 its assignors, some of whom are residents of California. (Doc. Nos. 14 at ¶ 11; 26 at 23.)  
12 “California maintains a strong interest in providing an effective means of redress for its residents  
13 tortiously injured in California.” *WhatsApp Inc.*, 472 F. Supp. 3d at 677; *see also Elec. Solidus,*  
14 *Inc.*, 2025 WL 1090941, at \*11 (finding that the fourth factor weighed heavily in the plaintiff’s  
15 favor because the defendant allegedly harmed the plaintiff in the forum state). Consideration of  
16 this factor then weighs strongly in favor of the exercise of jurisdiction.

17 As to the fifth factor, defendants again argue that the FAC fails to allege that harm  
18 occurred in California. (Doc. No. 16 at 24–25.) “The fifth factor (the most efficient judicial  
19 resolution of the dispute) primarily focuses on the location of the evidence and the witnesses.”  
20 *Alcon 3PL, Inc. v. Sun Grp. Partners LLC*, No. 20-cv-02523-RSWL-PVC, 2023 WL 2959141, at  
21 \*7 (C.D. Cal. Apr. 13, 2023). Considering the digital nature of the allegations at issue in this  
22 case, it is unclear at this point in the litigation where relevant evidence may be located.  
23 Nevertheless, the court observes that at least some of plaintiff’s assignors are located in  
24 California, as is defendant Brewer, suggesting that it is at least as reasonably efficient to exercise  
25 jurisdiction in this forum as in the states where defendants St. George and Litz reside. *See Aero*  
26 *L. Grp.*, 905 F.3d at 609 (observing that because witnesses resided in several different fora the  
27 factor was likely neutral). Accordingly, the court finds that consideration of this factor is neutral  
28 as to the exercise of jurisdiction.



1 As to the sixth factor, defendants argue that California does not provide a convenient  
2 forum for plaintiff to pursue relief in because the majority of plaintiff's claims are brought under  
3 federal law. (Doc. No. 16 at 25.) Plaintiff responds by stating in conclusory fashion that  
4 California is a more efficient forum than the alternative fora of Missouri or New York but  
5 provides no argument as to why this is the case. (Doc. No. 26 at 23.) The court concludes that  
6 consideration of this factor weighs neutrally as to the exercise of jurisdiction, while recognizing  
7 that this factor is generally not given much weight. *Aero L. Grp.*, 905 F.3d at 609; *see also*  
8 *Ziegler v. Indian River County*, 64 F.3d 470, 476 (9th Cir. 1995) (observing that neither the Ninth  
9 Circuit nor the Supreme Court have given much weight to this inconvenience to plaintiff factor).

10 Finally, as to the seventh factor, defendants argue that they are subject to general  
11 jurisdiction in their home states and that those states provide a suitable alternative forum. (Doc.  
12 No. 16 at 26.) "The plaintiff bears the burden of proving the unavailability of an alternative  
13 forum." *Core-Vent Corp. v. Nobel Indus. AB*, 11 F.3d 1482, 1490 (9th Cir. 1993). Plaintiff  
14 makes no argument as to why alternative fora are not suitable in this case. The court therefore  
15 finds that consideration of this factor weighs against the court exercising jurisdiction.

16 The Ninth Circuit has emphasized "the heavy burden on both domestic and foreign  
17 defendants in proving a 'compelling case' of unreasonableness to defeat jurisdiction." *Dole Food*  
18 *Co. v. Watts*, 303 F.3d 1104, 1117 (9th Cir. 2002). Here, the court has concluded that only two of  
19 the seven reasonableness factors weigh in defendants' favor and against the exercise of  
20 jurisdiction. This is insufficient to establish a compelling case of unreasonableness. *See, e.g.*  
21 *Elec. Solidus, Inc.*, 2025 WL 1090941, at \*12 (finding that three factors weighing in the  
22 defendant's favor was insufficient to present a compelling case of unreasonableness); *see also*  
23 *WhatsApp Inc.*, 472 F. Supp. 3d at 677 ("In sum, some factors tip in defendants' favor and others  
24 tip in plaintiffs' favor. The Ninth Circuit has indicated that, in such an instance, a defendant has  
25 not carried its burden to present a compelling case that exercising jurisdiction would be  
26 unreasonable.") (citing *Harris Rutsky & Co. Ins. Servs., Inc. v. Bell & Clements Ltd.*, 328 F.3d  
27 1122, 1134 (9th Cir. 2003)); *Alhathloul*, 2025 WL 2320474, at \*17 (finding that the defendant did

28 /////

1 not present a compelling case of unreasonableness where only the third and fifth factors weighed  
2 against exercising jurisdiction).

3 For these reasons, the court will deny the motion to dismiss the FAC for lack of personal  
4 jurisdiction pursuant to Rule 12(b)(2) brought on behalf of defendants St. George and Litz's.

5 **C. Failure to State a Claim**

6 Defendant Brewer moves to dismiss all claims brought against him in the FAC pursuant to  
7 Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 15 at 10.) Additionally, defendants St.  
8 George and Litz move to dismiss all claims against them in the FAC, largely relying on the  
9 arguments raised in defendant Brewer's motion. (Doc. No. 16 at 26.) Because defendants St.  
10 George and Litz indicate that they "expressly join in, and incorporate by reference" defendant  
11 Brewer's motion to dismiss, the court will refer to these arguments in support of dismissal as  
12 being made by defendants. (*Id.* at 2.)

13 1. Violation of the CFAA (Claim 1)

14 Defendants move to dismiss plaintiff's claim for violation of the CFAA, arguing that: (1)  
15 plaintiff lacks standing to sue under the CFAA because it was improperly assigned its claims; (2)  
16 it is not alleged that plaintiff's assignors suffered any cognizable loss; (3) the FAC fails to  
17 plausibly allege that defendants used malware to improperly access a protected computer; and (4)  
18 the electronic wallets that were purportedly targeted are not computers within the definition of the  
19 CFAA. (Doc. No. 15 at 22–27.)

20 The court turns first to defendants' argument that the losses identified by plaintiff in the  
21 FAC, namely the misappropriated cryptocurrency and the investigation costs to trace that  
22 cryptocurrency, are not cognizable losses under the CFAA. (Doc. No. 15 at 23–25.) Plaintiff  
23 responds, contending that the loss of cryptocurrency is itself a cognizable loss and that the costs  
24 incurred in tracing the cryptocurrency thereafter was also a loss attributable to a violation of the  
25 CFAA. (Doc. No. 24 at 22–26.)

26 "[T]he CFAA is an anti-hacking statute, not an expansive misappropriation statute. The  
27 statute's loss definition—with its references to damage assessments, data restoration, and  
28 interruption of service—clearly limits its focus to harms caused by computer intrusions, not

1 general injuries unrelated to the hacking itself.” *Andrews v. Sirius XM Radio Inc.*, 932 F.3d 1253,  
 2 1263 (9th Cir. 2019) (internal quotation marks and citations omitted). In the CFAA  
 3 context, “[c]ourts have interpreted ‘loss’ to mean ‘the types of costs . . . related to fixing a  
 4 computer.’” *Nowak v. Xapo, Inc.*, No. 5:20-cv-03643-BLF, 2020 WL 6822888, at \*4–5 (N.D.  
 5 Cal. Nov. 20, 2020) (quoting *Nexans Wires S.A. v. Sark-USA, Inc.*, 319 F. Supp. 2d 468, 475  
 6 (S.D.N.Y. 2004), *aff’d*, 166 F. App’x 559 (2d Cir. 2006)). Indeed, the Supreme Court has noted  
 7 that the CFAA’s definitions “are ill fitted . . . to remediating ‘misuse’ of sensitive information[.]”  
 8 *Van Buren v. United States*, 593 U.S. 374, 392 (2021); *see also Delacruz v. State Bar of Cal.*, No.  
 9 16-cv-06858-BLF-SVK, 2017 WL 7310715, at \*6 (N.D. Cal. June 21, 2017) (“In sum, the CFAA  
 10 creates the right to recover damages and losses related to a computer or system, not damages that  
 11 flow from the use of unlawfully obtained information.”), *report and recommendation adopted*,  
 12 2017 WL 3129207 (N.D. Cal. July 24, 2017).

13 Here, plaintiff alleges that the Bittensor attack was carried out by having users download  
 14 “malicious code [that] would secretly intercept their private wallet keys and send those keys to  
 15 opentensor.io.” (Doc. No. 14 at ¶ 46.) Subsequently, the attackers “used the private wallet keys”  
 16 to extract cryptocurrency from users’ private wallets. (*Id.* at ¶ 51.) District courts have held that  
 17 similar allegations, that an attacker unlawfully obtained information and then subsequently used  
 18 that information to cause a loss, fail to state a cognizable claim under the CFAA. *See Fraser v.*  
 19 *Mint Mobile, LLC*, No. 22-cv-00138-WHA, 2022 WL 1240864, at \*5 (N.D. Cal. Apr. 27, 2022)  
 20 (“The only damage or loss that Fraser cites in his complaint, however, is the theft of his  
 21 cryptocurrency, which does not constitute loss related to a computer or system. Rather, the loss  
 22 here flows from the use of the unlawfully obtained information to hack Fraser’s Ledger  
 23 account.”); *see also Nowak*, 2020 WL 6822888, at \*4 (finding that the loss of cryptocurrency was  
 24 not a cognizable loss under the CFAA). Because plaintiff has alleged the loss of the assignors’

25 /////

26 /////

27 /////

28 /////

1 cryptocurrency as a subsequent act after the initial attack, the court concludes that the loss of that  
2 cryptocurrency is not a cognizable loss under the CFAA.<sup>10</sup>

3 Plaintiff also argues that the investigation costs associated with identifying the attackers  
4 constitute a cognizable loss under the CFAA. (Doc. No. 24 at 23–24.) However, the Supreme  
5 Court has explained that loss under the CFAA is focused “on technological harms—such as the  
6 corruption of files—of the type unauthorized users cause to computer systems and data.” *Van*  
7 *Buren*, 593 U.S. at 392. Thus, courts have found that investigations taken to respond to a hack in  
8 order to prevent further intrusions are cognizable losses under the CFAA. *See Facebook, Inc. v.*  
9 *Power Ventures, Inc.*, 844 F.3d 1058, 1066 (9th Cir. 2016) (holding that the internal investigation  
10 by the plaintiff’s employees to respond to an attack was a cognizable loss under the CFAA); *see*  
11 *also WalkMe Ltd. v. Whatfix, Inc.*, No. 23-cv-03991-JSW, 2024 WL 3364019, at \*6–7 (N.D. Cal.  
12 July 9, 2024) (“[W]hen courts have found [sic] when a plaintiff premises damage or loss from  
13 responding to an offense or from doing a damage assessment was sufficient to show loss under  
14 the CFAA, the underlying facts show that the plaintiff took actions to *prevent* the type of  
15 intrusion the CFAA was enacted to prevent.”) (emphasis added); *Moonlight Mountain Recovery,*  
16 *Inc. v. McCoy*, No. 1:24-cv-00012-BLW, 2024 WL 4027972, at \*4–5 (D. Idaho Sept. 3, 2024)  
17 (finding that the costs incurred in investigating a violation and implementing remedial measures  
18 to prevent a future violation were cognizable losses under the CFAA). However, investigatory  
19 costs incurred only to assess damages have been found not to be cognizable losses under the  
20 CFAA. *See X Corp. v. Ctr. for Countering Digital Hate, Inc.*, 724 F. Supp. 3d 948, 983–84 (N.D.  
21 Cal. 2024) (finding that investigatory costs designed to assess the plaintiff’s damages were not  
22 cognizable losses under the CFAA); *Nowak*, 2020 WL 6822888, at \*5 (noting that costs  
23 associated with hiring an investigative firm to trace stolen funds were likely not a cognizable loss  
24 under the CFAA); *Fraser v. Mint Mobile, LLC*, No. 22-cv-00138-WHA, 2022 WL 2391000, at \*2

---

25  
26 <sup>10</sup> Plaintiff argues in the alternative that its reimbursement of its assignors for the value of their  
27 stolen cryptocurrency is a cognizable loss under the CFAA. (Doc. No. 24 at 23.) Plaintiff  
28 provides no authority in support of this assertion. For the same reasons that the loss of the  
cryptocurrency itself is not a cognizable loss under the CFAA, reimbursement of that  
cryptocurrency is also not a cognizable loss under the CFAA.

1 (N.D. Cal. July 1, 2022) (finding that the plaintiff’s proposed amendment to his complaint adding  
2 allegations that the plaintiff hired an expert to trace stolen cryptocurrency would fail to allege a  
3 cognizable loss under the CFAA).

4 Here, plaintiff’s allegations regarding investigatory costs describe its investigation as  
5 designed to “identify [the Bittensor attack’s] perpetrators, and to trace and recover the stolen  
6 assets.” (Doc. No. 14 at ¶ 99.) As described above, such investigatory costs are not cognizable  
7 losses under the CFAA because they are undertaken only to assess damages. Accordingly, the  
8 court rejects plaintiff’s argument that its investigatory costs are a cognizable loss under the  
9 CFAA.

10 Because plaintiff has failed to allege a cognizable loss under the CFAA, the court will  
11 grant defendants’ motion to dismiss the FAC’s first cause of action. Having reached this  
12 conclusion, the court need not consider defendants’ other arguments in support of dismissal of  
13 this cause of action.

14 2. Violation of the Wiretap Act (Claim 2)

15 Defendants next move to dismiss plaintiff’s claim for violation of the Wiretap Act on the  
16 following grounds: (1) plaintiff lacks standing to bring a civil action under the Wiretap Act; (2)  
17 plaintiff has failed to allege facts that plausibly support a claim that defendants violated the  
18 Wiretap Act; and (3) plaintiff has only alleged that software was used in the Bittensor attack  
19 which is not a “device” within the meaning of the Wiretap Act. (Doc. No. 15 at 27–30.) The  
20 court considers each of these arguments below.

21 a. *Assignability of Wiretap Act Claims*

22 Defendants assert that plaintiff lacks standing to bring a claim under the Wiretap Act  
23 because such claims cannot be assigned. (Doc. No. 15 at 27.) In support of this contention,  
24 defendants cite *Silvers v. Sony Pictures Entertainment, Inc.*, 402 F.3d 881, 885 (9th Cir. 2005), in  
25 which the Ninth Circuit held that claims under the Copyright Act—not the Wiretap Act—could  
26 not be brought by a party which merely purchased the right to sue from an aggrieved party. In  
27 opposition, plaintiff notes that other courts have permitted the assignment of claims under the  
28 Wiretap Act. (Doc. No. 24 at 26–27); *see also Malikyar v. Sramek*, No. 07-cv-03533-WHA,

2008 WL 4891020, at \*4 (N.D. Cal. Nov. 12, 2008) (finding that the purchaser of a claim brought under the Wiretap Act was a “real party in interest” who could maintain the civil action).<sup>11</sup>

In *Silvers*, the Ninth Circuit considered the language in 17 U.S.C. § 501(b) which states that “[t]he legal or beneficial owner of an exclusive right under a copyright is entitled . . . to institute an action for any infringement of that particular right committed while he or she is the owner of it. 17 U.S.C. § 501(b). The court concluded that the limitation of who was entitled to sue to the actual owner of the exclusive right at issue, as well as the durational limitation that required the violation to occur while the party was the owner of that right, prevented the assignability of a claim under the Copyright Act. *Silvers*, 402 F.3d at 885. Here, the Wiretap Act provides that “any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover[.]” 18 U.S.C. § 2520. There is no requirement within that statute that the person who may sue must be an owner of a particular right, nor is there a durational requirement. Defendants have identified no authority to support their conclusory assertion that claims under the Wiretap Act may not be assigned, and the court has been unable to locate any such authority. As such, the court concludes that a claim under the Wiretap Act may be assigned and rejects defendants’ argument to the contrary. See *Malikyar*, 2008 WL 4891020, at \*4.

b. *Plausible Allegations of Violation of Wiretap Act*

Defendants next argue that plaintiff has failed to plausibly allege both that they were the attackers behind the Bittensor attack and that they intentionally intercepted communications as required to state a claim under the Wiretap Act. (Doc. Nos. 15 at 28; 16 at 28, 31.) Defendants do not argue that the Bittensor attack, if plausibly alleged, would not constitute intentional interception of electronic communications. Accordingly, the court addresses only whether plaintiff has plausibly alleged with particularity that defendants committed the Bittensor attack.

////

---

<sup>11</sup> Though the court in *Malikyar* did not explicitly cite the Wiretap Act as the basis for the cause of action it addressed, a prior order in the same action reveals that the action was brought pursuant to that statute. *Malikyar v. Sramek*, No. 07-cv-03533-WHA, 2007 WL 3343159, at \*1 (N.D. Cal. Nov. 8, 2007).

1 Defendants contend that plaintiff has failed to allege a civil conspiracy or alternatively  
2 individual actions that would constitute tortious acts. (Doc. No. 15 at 18–22.) Here, as discussed  
3 above, plaintiff has alleged that each of the individual defendants participated in the Bittensor  
4 attack. Regarding defendants St. George and Litz, the court incorporates its analysis set forth  
5 above regarding whether plaintiff has alleged that they committed a direct act. The court finds  
6 that those same allegations support a plausible inference that defendants St. George and Litz were  
7 participants in the Bittensor attack. The court also observes that plaintiff has alleged that  
8 defendant St. George was one of only six people who had a “proprietary API token” that  
9 permitted him to upload Bittensor software updates to PyPI. (Doc. No. 14 at ¶ 27.) That  
10 allegation provides some support for plaintiff’s contention that defendant St. George had the  
11 ability to upload malicious code to Bittensor. Regarding defendant Brewer, plaintiff has alleged  
12 that he created FileTAO, which deployed the update that required the malicious code to be  
13 downloaded, and was “intimately familiar with Bittensor infrastructure and code.”<sup>12</sup> (*Id.* at ¶¶ 36,  
14 41.) Plaintiff has also alleged that defendants Brewer and Litz used an Ethereum wallet that  
15 transferred assets taken in the Bittensor attack to a laundering service and that, shortly thereafter,  
16 significant funds were deposited into a separate Ethereum wallet connected to defendants Brewer  
17 and Litz from cryptocurrency exchanges that had received proceeds from the Bittensor attack.  
18 (*Id.* at ¶¶ 76, 78.)

19 Defendants argue at length that plaintiff’s allegations are consistent with a plausible  
20 explanation that none of the defendants were involved in the Bittensor attack and that their  
21 alleged actions have various legitimate business explanations. (Doc. Nos. 15 at 20–22; 16 at 27–

---

22 <sup>12</sup> Defendants also argue that plaintiff’s allegations must satisfy the heightened pleading standard  
23 for pleading fraud under Rule 9. (Doc. No. 15 at 17.) “To satisfy the heightened pleading  
24 requirements for fraud or fraud-based claims, the pleadings must allege the who, what, when,  
25 where, and how of the alleged fraudulent conduct[.]” *Oracle Am., Inc. v. Serv. Key, LLC*, No. 12-  
26 cv-00790-SBA, 2012 WL 6019580 (N.D. Cal. Dec. 3, 2012) (internal quotation marks and  
27 citation omitted) (quoting *Cooper v. Pickett*, 137 F.3d 616, 627 (9th Cir. 1997)). In moving to  
28 dismiss, defendants do not identify how plaintiff’s detailed allegations fail to meet this heightened  
pleading standard. In defendant Brewer’s reply, he contends that plaintiff’s allegations amount to  
“group pleading” which is impermissible under Rule 9(b). (Doc. No. 33 at 10.) However, the  
court relies only on the specific individual allegations regarding each of defendants’ conduct and  
therefore need not consider whether some allegations constitute impermissible group pleading.



31.) This argument is unpersuasive for purposes of resolving the pending motion. “If there are two alternative explanations, one advanced by defendant and the other advanced by plaintiff, both of which are plausible, plaintiff’s complaint survives a motion to dismiss under Rule 12(b)(6).” *Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011); *see also In re Century Aluminum Co. Secs. Litig.*, 729 F.3d 1104, 1108 (9th Cir. 2013) (holding that the plaintiff must allege facts that tend to exclude the defendant’s explanation to render the plaintiff’s theory plausible). Plaintiff’s allegations regarding defendants Brewer and Litz’s connections to cryptocurrency wallets which transferred proceeds from the Bittensor attack to an alleged laundering service and its allegations regarding St. George’s control over the FileTAO codebase tend to exclude defendant’s alternative explanations for their conduct. At the motion to dismiss stage of the litigation, because plaintiff has alleged a plausible claim against each of the individual defendants, the court must reject defendants’ argument.

c. *Whether Software is a Device Under the Wiretap Act*

Defendants argue that plaintiff has only alleged that a piece of software intercepted communications and that software is not a “device” under the Wiretap Act. (Doc. No. 15 at 29–30.) Plaintiff contends in opposition that the prevailing view among federal courts is that software is a device within the meaning of the Wiretap Act. (Doc. No. 24 at 27–28.)

“To plead a plausible claim under the Federal Wiretap Act, Plaintiffs’ complaint must demonstrate that [the defendant] (1) without consent (2) intentionally intercepted the (3) contents of a communication (4) *using a device*.” *India Price v. Carnival Corp.*, 712 F. Supp. 3d 1347, 1354 (S.D. Cal. 2024) (emphasis added). The Wiretap Act defines “[e]lectronic, mechanical, or other device . . . as any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than [inapplicable exceptions].” 18 U.S.C. § 2510. Several district courts have concluded that software is a “device” within the meaning of the Wiretap Act. *India Price*, 712 F. Supp. 3d at 1361–62 (holding that, because software requires a computer to function and a computer is undoubtedly a physical device, software is a device within the meaning of the Wiretap Act); *see also In re Carrier IQ, Inc.*, 78 F. Supp. 3d 1051, 1084 (N.D. Cal. 2015) (concluding that software, as a component of a computer, is a device for purposes of

the Wiretap Act); *United States v. Hutchins*, 361 F. Supp. 3d 779, 795 (E.D. Wis. 2019) (“The majority of courts to consider this issue have entertained the notion that software may be considered a device for the purposes of the Wiretap Act.”). Moreover, many district courts within this circuit, when interpreting the meaning of “device” under the California Invasion of Privacy Act (“CIPA”), have found that the definition of device is the same under both CIPA and the Wiretap Act and concluded that software constitutes a device under both provisions. *See Yockey v. Salesforce, Inc.*, 745 F. Supp. 3d 945, 956 (N.D. Cal. 2024) (noting that analysis for a violation of CIPA is the same as for a violation of the Wiretap Act and concluding that software is a device for purposes of both); *see also Gladstone v. Amazon Web Servs., Inc.*, 739 F. Supp. 3d 846, 856 (W.D. Wash. 2024) (same); *Tate v. VITAS Healthcare Corp.*, 762 F. Supp. 3d 949, 957 (E.D. Cal. 2025) (same). In light of this persuasive authority, the court concludes that the purported malware that plaintiff alleges defendants deployed constitutes a device for purposes of the Wiretap Act.

For the reasons explained above, the court will deny defendants’ motion to dismiss the FAC’s second claim for violation of the Wiretap Act.

### 3. Fraud (Claim 3)

Defendants move to dismiss plaintiff’s third claim for fraud on the basis that plaintiff has failed to allege facts that make out the elements of a fraud claim under California law. (Doc. Nos. 15 at 30–31; 16 at 29, 31.) Under California law, “[t]he elements of fraud are: (1) a misrepresentation (false representation, concealment, or nondisclosure); (2) knowledge of falsity (or scienter); (3) intent to defraud, i.e., to induce reliance; (4) justifiable reliance; and (5) resulting damage.” *Robinson Helicopter Co. v. Dana Corp.*, 34 Cal. 4th 979, 990 (2004) (citing *Lazar v. Superior Ct.*, 12 Cal. 4th 631, 638 (1996)). Defendants’ argument in this regard is conclusory, stating only that the FAC does not allege what fraudulent statement each defendant made. (Doc. Nos. 15 at 31; 16 at 29.) Plaintiff contends that it has alleged that each defendant was involved in the uploading of the purportedly malicious 6.12.2 software which intentionally mimicked a standard Bittensor software update. (Doc. No. 24 at 29.)

////

Plaintiff has clearly alleged that the uploading of version 6.12.2 is the fraudulent statement at issue, insofar as the malicious version misrepresented itself as an authentic update from Opentensor. (Doc. No. 14 at ¶ 114.) Defendants’ argument appears to be that plaintiff has only alleged generally that defendants uploaded that version of the update, but impermissibly lumped defendants together in doing so. (*Id.* at ¶ 48; Doc. No. 33 at 10 (arguing that Rule 9(b) prevents group pleading of this form).) “There is no flaw in a pleading, however, where collective allegations are used to describe the actions of multiple defendants who are alleged to have engaged in precisely the same conduct.” *United States v. United Healthcare Ins. Co.*, 848 F.3d 1161, 1184 (9th Cir. 2016) (discussing the particularity requirements of Rule 9(b)); *see also Activision Publ’g, Inc. v. EngineOwning UG*, No. 22-cv-00051-MWF-JC, 2023 WL 3272399, at \*24 (C.D. Cal. Apr. 4, 2023) (rejecting the defendants’ argument that the plaintiff improperly engaged in group pleading where the plaintiff specifically alleged the role of each defendant in the fraud even where some allegations grouped the defendants together). As discussed above, plaintiff has made detailed allegations regarding each defendant’s connection to the Bittensor attack and has alleged that each defendant took part in the act of uploading a malicious software file. Accordingly, the court rejects defendants’ argument that plaintiff has not specifically alleged that each defendant made a fraudulent statement since it has alleged that they uploaded a purportedly malicious version of what appeared to be a standard software update. Because this particularity challenge is the only basis on which defendants moved for dismissal of plaintiff’s fraud claim, their motion to dismiss the FAC’s claim 3 must be denied.

#### 4. Conversion (Claim 4)

Defendants move to dismiss plaintiff’s fourth claim in the FAC for conversion on the basis that plaintiff has failed to allege facts which make out the elements of a conversion claim under California law. (Doc. No. 15 at 31.) “The elements of a conversion claim are: (1) the plaintiff’s ownership or right to possession of the property; (2) the defendant’s conversion by a wrongful act or disposition of property rights; and (3) damages.” *Nguyen v. Stephens Inst.*, 529 F. Supp. 3d 1047, 1057–58 (N.D. Cal. 2021) (internal quotation marks omitted) (quoting *Lee v. Hanley*, 61 Cal. 4th 1225, 1240 (2015)). As with defendants’ argument regarding plaintiff’s fraud

claim, defendants’ argument as to the conversion claim is conclusory, stating only that plaintiff has failed to allege that the “specific stolen proceeds have been traced to Brewer or any of the named Defendants or that any of them ever knowingly received stolen assets.” (Doc. No. 15 at 31.) The court has already rejected this argument in support of dismissal above, where it concluded that plaintiff has plausibly plead that each defendant was involved in the Bittensor attack, that assets taken in that attack were transferred to and from a wallet associated with defendants Litz and Brewer, and that what may be reasonably inferred to be proceeds from that attack were deposited in a wallet associated with defendants Litz and Brewer. Nevertheless, the court notes that plaintiff has not made any allegation that defendant St. George came into possession of stolen property. Accordingly, the court will grant defendant St. George’s motion to dismiss plaintiff’s fourth cause of action for conversion as to himself and otherwise deny the motions to dismiss plaintiff’s fourth cause of action as to defendants Litz and Brewer.

#### 5. Unjust Enrichment (Claim 5)

Defendants move for dismissal of plaintiff’s fifth claim for unjust enrichment, arguing that plaintiff has failed to allege facts which support the elements of unjust enrichment. (Doc. No. 15 at 32.) “In California, there is not a standalone cause of action for unjust enrichment, but [w]hen a plaintiff alleges unjust enrichment, a court may construe the cause of action as a quasi-contract claim seeking restitution.” *Rodriguez v. Mondelèz Glob. LLC*, 703 F. Supp. 3d 1191, 1213 (S.D. Cal. 2023). “The doctrine applies where plaintiffs, having no enforceable contract, nonetheless have conferred a benefit on defendant which defendant has knowingly accepted under circumstances that make it inequitable for the defendant to retain the benefit without paying for its value.” *James v. Chocmod USA Inc.*, 773 F. Supp. 3d 945, 962 (E.D. Cal. 2025) (internal quotation marks omitted). “Quasi-contract claims require the plaintiff to show ‘(1) a defendant’s receipt of a benefit and (2) unjust retention of that benefit at the plaintiff’s expense.’” *Mendoza v. Procter & Gamble Co.*, 707 F. Supp. 3d 932, 945 (C.D. Cal. 2023). Here, plaintiff alleges that the benefit was the value of the digital assets owned by the assignors which were taken during the Bittensor attack. (Doc. No. 14 at ¶ 127.) Because the court has already concluded that plaintiff has stated cognizable fraud and conversion claims regarding those assets, the court similarly

1 concludes that plaintiff has stated a cognizable unjust enrichment claim. *Bhatia v. Silvergate*  
2 *Bank*, 725 F. Supp. 3d 1079, 1126 (S.D. Cal. 2024) (finding that the plaintiffs' allegations that the  
3 defendant received a benefit by aiding and abetting fraud and conversion of the plaintiffs' funds  
4 were sufficient to state a cognizable unjust enrichment claim). Accordingly, the court will deny  
5 defendants' motion to dismiss plaintiff's fifth cause of action for unjust enrichment.

6         6. Imposition of a Constructive Trust and Disgorgement of Funds (Claim 6)

7         Defendants move to dismiss plaintiff's sixth cause of action for imposition of a  
8 constructive trust on the basis that it is a remedy and not an independent cause of action. (Doc.  
9 No. 15 at 33.) It has been recognized that a "plaintiff may seek a constructive trust as a form of  
10 relief for one or more of its substantive claims, but that remedy is not an independent cause of  
11 action." *A.B. Concrete Coating Inc. v. Wells Fargo Bank, Nat'l Assoc.*, 491 F. Supp. 3d 727, 736  
12 (E.D. Cal. 2020); *see also Mirkooshesh v. Elie*, No. 22-cv-07615-WHO, 2023 WL 2652240, at \*6  
13 (N.D. Cal. Mar. 26, 2023); *but see Gedau v. Evans*, No. 25-cv-00335-MMA-JLB, 2025 WL  
14 1457081, at \*7 (S.D. Cal. May 21, 2025) (noting that, while federal courts within the Ninth  
15 Circuit have interpreted California law to not permit imposition of a constructive trust as an  
16 independent cause of action, California state courts have not explicitly disallowed it). The court  
17 will therefore grant defendants' motion to dismiss plaintiff's sixth cause of action without leave  
18 to amend.

19         7. Violation of California Penal Code § 496 (Claim 7)

20         Defendants move to dismiss plaintiff's seventh claim for violation of California Penal  
21 Code § 496 on the following bases: (1) that plaintiff has failed to allege facts stating a cognizable  
22 claim for violation of § 496; (2) that plaintiff has failed to allege that any tortious acts occurred in  
23 California and § 496 cannot extend to conduct occurring in other states; and (3) that plaintiff  
24 lacks standing as an assignee to bring an action for punitive damages. (Doc. No. 15 at 33–34.)  
25 The court addresses each of these arguments below.

26         To state a claim pursuant to California Penal Code § 496 for possession of stolen property,  
27 a plaintiff must allege: "(1) that the property has been stolen; (2) that the accused received,  
28 concealed[, or withheld it from its owner; and (3) that the accused knew the property was

1 stolen.” *Nowak*, 2020 WL 6822888, at \*2 (internal quotation marks omitted) (quoting *People v.*  
2 *Stuart*, 272 Cal. App. 2d 653, 656 (1969)). As has been recognized, “[i]f a plaintiff adequately  
3 pleads fraud in a case like this, it follows that it adequately pleaded theft by false pretense (which  
4 satisfies the first element of a § 496 violation) because the elements of a civil fraud claim closely  
5 track those of theft by false pretense.” *River Supply, Inc. v. Oracle Am., Inc.*, No. 3:23-cv-02981-  
6 LB, 2023 WL 7346397, at \*16–17 (N.D. Cal. Nov. 6, 2023) (cleaned up) (quoting *Grouse River*  
7 *Outfitters, Ltd. v. Oracle Corp.*, 848 F. App’x 238, 242 (9th Cir. 2021)). Because the court has  
8 already concluded that plaintiff has stated a cognizable fraud claim, the court also finds that  
9 plaintiff has alleged the first element of a § 496 claim. Additionally, the court has already  
10 concluded above that plaintiff has alleged that defendants Litz and Brewer received proceeds  
11 from the Bittensor attack. Accordingly, the court finds that plaintiff has alleged the second and  
12 third elements and has therefore stated a cognizable claim for relief pursuant to § 496 against  
13 defendants Litz and Brewer. *See Matthews v. Apple, Inc.*, 769 F. Supp. 3d 999, 1012–13 (N.D.  
14 Cal. 2024) (holding that the plaintiff stated a cognizable claim for relief pursuant to § 496 where  
15 the plaintiff alleged that the defendant had knowingly maintained possession of property that it  
16 knew to be stolen). However, for the same reasons as noted above with respect to plaintiff’s  
17 claim for conversion, the court finds that plaintiff has not stated a cognizable claim for relief  
18 pursuant to § 496 against defendant St. George and will grant his motion to dismiss the FAC’s  
19 seventh cause of action as to him.

20 Defendants argue that plaintiff has failed to allege that any tortious acts, or any part  
21 thereof, occurred in California and therefore plaintiff is barred from asserting a § 496 claim by the  
22 presumption against extraterritoriality. (Doc. No. 15 at 34.) Defendants’ argument is premature.  
23 Plaintiff has alleged that some of its assignors are California residents, that defendant Brewer is a  
24 California resident, and that FileTAO is headquartered in California. *See C.M. v. MarinHealth*  
25 *Med. Grp., Inc.*, No. 23-cv-04179-WHO, 2024 WL 217841, at \*5 (N.D. Cal. Jan. 19, 2024)  
26 (denying a motion to dismiss based upon a similar extraterritoriality argument because plaintiff  
27 had alleged his own California residency, that defendant was a California resident, and that the  
28 receiver of the purportedly stolen proceeds was a California resident); *see also Doe v. Meta*

1 *Platforms, Inc.*, 690 F. Supp. 3d 1064, 1078–79 (N.D. Cal. 2023) (denying a motion to dismiss a  
 2 CIPA claim on the grounds that the extraterritoriality issue being raised was premature).<sup>13</sup>  
 3 Plaintiff has plausibly alleged that at least some of the events in preparation of the Bittensor  
 4 attack and the execution of that attack took place in California. This is sufficient and compels the  
 5 rejection of defendants’ extraterritoriality argument at the motion to dismiss stage.

6 Finally, defendants’ contention that plaintiff may not sue for punitive damages under  
 7 § 496 as an assignee is unpersuasive. *See Capitol Specialty Ins. Co. v. Stedfast Ins. Co.*, No.  
 8 2:20-cv-01382-JCM-VCF, 2022 WL 16902545, at \*3 (D. Nev. Mar. 31, 2022) (“District courts  
 9 sitting in California have already . . . held instead that ‘whether punitive damages may be  
 10 assigned does not rely on the nature of the relief [but] upon the nature of the cause of action it is  
 11 brought under.’”) (quoting *Great Am. Ins. Co. v. Vasquez Marshall Architects*, No. 19-cv-01173-  
 12 CAB-NLS, 2019 WL 4242481, at \*3–4 (S.D. Cal. Sept. 6, 2019)). Rather, a claim is not  
 13 assignable under California law only when the underlying cause of action pertains to “wrongs  
 14 done to the person, the reputation, or the feelings of the injured party, and to contracts of a purely  
 15 personal nature.” *Diehl v. Starbucks Corp.*, No. 12-cv-02432-AJB-BGS, 2014 WL 295468 (S.D.  
 16 Cal. Jan. 27, 2014) (internal quotation marks omitted) (quoting *Wikstrom v. Yolo Fliers Club*, 206  
 17 Cal. 461, 464 (1929)). Whether a claim for punitive damages may be assigned “does not rely on  
 18 the nature of the relief, instead it relies upon the nature of the cause of action it is brought under.”  
 19 *Id.* Defendants have raised no argument that a claim brought under § 496 is “purely personal”  
 20 such that it cannot be assigned, but only that the ability to seek punitive damages in such an  
 21 action cannot be assigned. (Doc. No. 15 at 34.) Based on the authority cited above, the court  
 22 rejects this argument.

---

23  
 24 <sup>13</sup> The cases relied upon by defendants in support of their extraterritoriality argument are  
 25 ultimately unpersuasive because both pertain to allegations of fully out-of-state conduct. *See*  
 26 *Dfinity USA Rsch. LLC v. Bravick*, No. 22-cv-03732-EJD, 2023 WL 2717252, at \*5 (N.D. Cal.  
 27 Mar. 29, 2023) (dismissing a § 496 claim because the basis for the plaintiff’s claim took place  
 28 “solely in Michigan”); *see also Scosche Indus., Inc. v. S & T Montgomery Distrib., Inc.*, No. 2:22-  
 cv-09030-SVW-MAA, 2024 WL 4003894, at \*4 (C.D. Cal. June 5, 2024) (dismissing a § 496  
 claim because, although the plaintiff received fraudulent bills within California, those bills were  
 fully prepared in Alabama).



1 Accordingly, the court will deny defendants Litz and Brewer's motions to dismiss  
2 plaintiff's seventh cause of action for violation of California Penal Code § 496.

3 **D. Motion for Sanctions**

4 In their motion for sanctions, defendants maintain that plaintiff's claims are factually  
5 baseless, not likely to be supported by the evidence, that plaintiff's counsel did not conduct a  
6 reasonable inquiry before filing those claims, and accordingly that sanctions should be imposed.  
7 (Doc. No. 40 at 18–24, 26–29.) Defendants separately argue that plaintiff's arguments regarding  
8 personal jurisdiction over defendants St. George and Litz are legally baseless. (Doc. No. 40 at  
9 24–26.) The undersigned rejects this latter argument because it has concluded above that this  
10 court may exercise personal jurisdiction over defendants St. George and Litz. The court  
11 considers the arguments related to the lack of evidence supporting plaintiff's allegations below.

12 “Rule 11 is an extraordinary remedy, one to be exercised with extreme caution.” *In re*  
13 *Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 437 (9th Cir. 1996) (quoting *Operating Eng'rs*  
14 *Pension Trust v. A-C Co.*, 859 F.2d 1336, 1345 (9th Cir. 1988)). “[T]he central purpose of Rule  
15 11 is to deter baseless filings in district court and . . . streamline the administration and procedure  
16 of the federal courts.” *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990). When a  
17 court examines a complaint for frivolousness under Rule 11, it must determine both: (1) whether  
18 the complaint is legally or factually baseless from an objective perspective, and (2) whether the  
19 attorney conducted a reasonable and competent inquiry before signing it. *Holgate v. Baldwin*,  
20 425 F.3d 671, 676 (9th Cir. 2005). “Rule 11's standard for factual support is not a high one. All  
21 that is needed is some evidence to support the party's factual allegations.” *FTC v. Kochava Inc.*,  
22 No. 2:22-cv-00377-BLW, 2023 WL 7283113, at \*3 (D. Idaho Nov. 3, 2023) (internal citations  
23 and quotation marks omitted). “Further, circumstantial evidence, and the reasonable inferences  
24 drawn from that evidence, are treated as evidentiary support for purposes of Rule 11.” *Benedict*  
25 *v. Hewlett-Packard Co.*, No. 13-cv-00119-LHK, 2014 WL 234207, at \*5 (N.D. Cal. Jan. 21,  
26 2014) (internal quotation marks omitted).

27 First, defendants argue that plaintiff's theory that defendants were the designers of the  
28 malware used in the Bittensor attack is factually baseless. (Doc. No. 40 at 18–20.) Specifically,

1 defendants contend that plaintiff’s allegation that defendant St. George had access to the PyPI key  
2 before his resignation from Opentensor and that defendants St. George and Brewer had certain  
3 technical expertise are insufficient to support a reasonable inference that defendants designed the  
4 malware. (*Id.*) The court first observes that the only allegation which defendants directly deny—  
5 that defendant St. George retained the PyPI key after his resignation from Opentensor—is not  
6 even contained within plaintiff’s FAC. As for whether the other alleged facts, which defendants  
7 do not deny, support a reasonable inference that defendants were the perpetrators of the Bittensor  
8 attack, the court has already found above that they do. Accordingly, the court rejects defendants’  
9 first argument in support of the imposition of sanctions against plaintiff.

10 Second, defendants argue that plaintiff’s allegations of a conspiracy “are conclusory and  
11 unsupported by facts.” (Doc. No. 40 at 20–21.) In this regard, defendants “merely rehash[ ]” the  
12 arguments made in their motions to dismiss, particularly arguments regarding group pleading.  
13 (*Id.*); *see also Dakavia Mgmt. Corp. v. Bigelow*, No. 1:20-cv-00448-NONE-SKO, 2022 WL  
14 104245, at \*14–15 (E.D. Cal. Jan. 10, 2022) (denying a motion for sanctions where it largely  
15 rehashed the arguments set forth in the defendants’ motion to dismiss). For the same reasons that  
16 the court found this argument unpersuasive in considering defendants’ motions to dismiss, the  
17 court also rejects this argument in the context of defendants’ motion for sanctions.

18 Finally, defendants argue that plaintiff’s allegations regarding the transfer of funds on  
19 blockchains are intentionally misleading and lack factual support. (Doc. No. 40 at 21–24.) In  
20 essence, defendants dispute a few specific allegations made by plaintiff: (1) that the wallet  
21 referred to as a “Suspected Laundering Service” can reasonably be alleged to be a laundering  
22 service; (2) that the wallet which was involved in a transfer of assets to this laundering service  
23 address “belong[ed] to Litz[;]” and (3) that plaintiff’s allegations imply the transfer was direct  
24 when in fact the transfer of assets went through multiple wallets first. (*Id.*)

25 As to the first disputed allegation, defendants present a declaration from Jeremy Sheridan,  
26 the managing director of FTI Consulting Technology, LLC which provides “digital forensic  
27 consulting services.” (Doc. No. 40-6 at ¶¶ 2, 3.) Mr. Sheridan declares that he examined the  
28 basis for the allegation that the Suspected Laundering Service was involved with a previous

1 incident of cryptocurrency theft and observes that the wallet appeared to “stake” assets it received  
2 “on-chain to earn ETH rewards” similar to investing in a savings account. (*Id.* at ¶ 15.) He also  
3 declares that the wallet appeared to send high proportions of the purportedly stolen funds to the  
4 same “beacon chain” address. (*Id.*) Mr. Sheridan concludes that such behavior was unusual for a  
5 cryptocurrency laundering service. (*Id.*) With its opposition, plaintiff presents a declaration from  
6 Adam Zarazinski, the founder and CEO of Inca Digital who possesses “significant expertise” in  
7 digital forensics, financial data analysis, and cryptocurrency. (Doc. No. 42-1 at ¶ 2.) Mr.  
8 Zarazinski disagrees with Mr. Sheridan’s conclusions, noting that there have been multiple  
9 transactions involving the Suspected Laundering Service wallet that involved stolen  
10 cryptocurrency and that the financial transactions described by Mr. Sheridan are not atypical of  
11 laundering cryptocurrency. (*Id.* at ¶¶ 20, 21.) Of course, “the Court’s present role is not to weigh  
12 the evidence. Rather the court need only determine whether there was some factual basis  
13 supporting Plaintiffs’ position.” *Gold Glove Prods. v. Handfield*, No. 13-cv-07247-DSF-RZX,  
14 2014 WL 12560617, at \*2 (C.D. Cal. June 4, 2014). Defendants do not meaningfully dispute Mr.  
15 Zarazinski’s qualifications and it is plain that his declaration constitutes some evidence that the  
16 Suspected Laundering Service is a wallet associated with cryptocurrency laundering.  
17 Accordingly, the court finds that plaintiff has shown some factual basis for its allegation that the  
18 Suspected Laundering Service was involved with laundering cryptocurrency assets.

19 As to plaintiff’s second and third allegations which the defendants dispute, defendants  
20 plainly misstate the allegations of the FAC, since plaintiff only alleges therein that various wallets  
21 are associated with—not owned by—defendants Brewer and Litz based on publication of a non-  
22 fungible token and at no point alleges that the purported transfer of cryptocurrency assets were  
23 direct. (Doc. No. 14 at ¶¶ 64, 68 (alleging that various intermediary transactions were used to  
24 transfer proceeds from the Bittensor attack), 76, 78 (associating certain wallet addresses with  
25 defendants Brewer and Litz based off of the activity of those wallets).) Accordingly, the court  
26 rejects defendants’ arguments in this regard.

27 /////

28 /////

1 Having found that plaintiff has provided some evidence of a factual basis for the  
 2 allegations of its first amended complaint, the court will deny defendants' motion seeking the  
 3 imposition of sanctions.<sup>14</sup>

4 **E. Leave to Amend**

5 Leave to amend should be granted "freely" when justice so requires. Fed. R. Civ.  
 6 P. 15(a). The Ninth Circuit maintains a policy of "extreme liberality generally in favoring  
 7 amendments to pleadings." *Rosenberg Bros. & Co. v. Arnold*, 283 F.2d 406, 406 (9th Cir. 1960).  
 8 Reasons "such as undue delay, bad faith or dilatory motive . . . repeated failure to cure  
 9 deficiencies . . . undue prejudice to the opposing party . . . [or] futility" may support denial of  
 10 leave to amend. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Dismissal without leave to amend is  
 11 proper if it is clear that "the complaint could not be saved by any amendment." *Intri-Plex Techs.*  
 12 *v. Crest Grp.*, 499 F.3d 1048, 1056 (9th Cir. 2007) (citation omitted); *see also Ascon Props., Inc.*  
 13 *v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989) ("Leave need not be granted where the  
 14 amendment of the complaint . . . constitutes an exercise in futility . . ."). A district court "should  
 15 grant leave to amend even if no request to amend the pleading was made, unless it determines that  
 16 the pleading could not possibly be cured by the allegation of other facts." *Cook, Perkiss and*  
 17 *Liehe, Inc. v. N. Cal. Collection Servs.*, 911 F.2d 242, 247 (9th Cir. 1990).

18 Several of the pleading deficiencies identified in this order could conceivably be cured by  
 19 additional and more detailed allegations. Therefore, the court will grant plaintiff leave to amend  
 20 its FAC. *See Nat'l Council of La Raza v. Cegavske*, 800 F.3d 1032, 1041 (9th Cir. 2015) ("It is  
 21 black-letter law that a district court must give plaintiffs at least one chance to amend a deficient  
 22 complaint, absent a clear showing that amendment would be futile.").

23 /////

24 /////

25 /////

---

26 <sup>14</sup> In the court's view, it is defendants' motion for sanctions that is not well-supported. The court  
 27 reminds the parties and their counsel that the Eastern District of California faces an  
 28 overwhelming caseload and admonishes counsel that it will not look favorably on future  
 unfounded motions.

**CONCLUSION**

For the reasons above,

1. Defendant Brewer's motion to dismiss (Doc No. 15) and defendants St. George and Litz's motion to dismiss (Doc. No. 16) are GRANTED in part and DENIED in part as follows:
  - a. Defendants St. George and Litz's motion to dismiss for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2) is DENIED;
  - b. Defendants' motions to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) are GRANTED with leave to amend as to the following claims:
    - i. Violation of the CFAA (Claim 1);
    - ii. Conversion as to defendant St. George (Claim 4);
    - iii. Imposition of a constructive trust and disgorgement of funds (Claim 6); and
    - iv. Violation of California Penal Code § 496 as to defendant St. George (Claim 7);
  - c. Defendants' motions to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) are otherwise DENIED;
2. Defendants Litz and St. George's request for judicial notice (Doc. No. 18) is DENIED;
3. Plaintiff's request to seal (Doc. No. 30) is GRANTED;
4. Within seven (7) days from the date of entry of this order:
  - a. Plaintiff shall file a redacted version of Exhibit D to the declaration of Gyles Foster and a redacted version of Exhibits C and D to the declaration of Margaret Hoppin, redacting the personal information contained therein; and

////

b. Plaintiff shall file unredacted versions of the identified documents under seal;

5. Defendants' motion for the imposition of sanctions (Doc. No. 40) is DENIED;

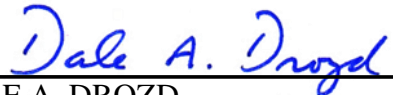
6. Plaintiff shall file its second amended complaint, or alternatively, a notice of its intent not to do so, within twenty-one (21) days from the date of service of this order;

7. If plaintiff files a notice of intent not to file a second amended complaint, then defendants shall file an answer as to the claims found to be cognizable in this order within twenty-one (21) days of service of that notice; and

8. In accordance with its prior order (Doc. No. 37), the court hereby RESETS the Initial Scheduling Conference in this case for February 23, 2026 at 1:30 p.m. before the undersigned via Zoom. The parties may file a joint status report containing any additional scheduling information that they wish the court to consider not included in their previously filed joint status report (Doc. No. 36) no later than February 9, 2026.

IT IS SO ORDERED.

Dated: November 14, 2025

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES DISTRICT JUDGE